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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,402	09/11/2003	Jong Woog Lee	7950.010.00-US	3759
30827	7590	06/02/2006	EXAMINER	
MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006			LEUNG, PHILIP H	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,402

Applicant(s)

LEE ET AL.

Examiner

Philip H. Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-33, 42 and 46-49 is/are rejected.
- 7) ☒ Claim(s) 34-41, 43-45 and 50-57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4-5-2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 42, the newly amended limitation “at least one tray the from slanting while receiving the” at line 3 is not understood. Clarification and correction are required.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 28, 29, 42, 46 and 47 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Back et al (US 2003/0042252) (previously cited).

Back shows a combined toaster and microwave oven comprising: a body 27; a cavity 22 formed in the body, for accommodating objects to be cooked by microwave; an electronic chamber 23 provided at a portion inside the body and in which electronic parts for applying microwave into the cavity are installed; and a toaster 30, wherein the toaster comprises: a toaster case 50 provided in the front of the electronic chamber and having slits 62; at least one tray T being configured to at least receive, eject, and/or keep an item from slanting (with supporters 136-138) and a holder part (the tray supporter 70) that moves in accordance with a movement of the at least one tray T; and a heater assembly 100 installed inside the toaster case, for heating the bread (see Figures 2-8 and paragraphs [0043] – [0078]).

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28-33, 42 and 46-49 are rejected under 35 U.S.C. 103(a) as being obvious over LG Electronics, Inc. (EP 1 213 948 A) (previously cited by the applicant), in view of Origane (US 6,112,648) (previously cited).

LG Electronics, Inc. shows a combined toaster and microwave oven 110 comprising: a body forming an appearance thereof; a cavity formed in the body, for accommodating objects to be cooked by using microwave; an electronic chamber 200 provided at a portion inside the body and in which electronic parts for applying microwave into the cavity are installed; and a toaster 100, wherein the toaster comprises: a toaster case 102 provided in the front of the electronic chamber and having slits on both sides thereof; at least one tray assembly 120 having means for receiving and ejecting bread; and a heater assembly 140 installed inside the toaster case, for heating the bread (see Figures 1-8 and paragraphs [0020] – [0034]). Therefore it shows every feature except that it does not explicitly state that the tray assembly 120 is capable of preventing the bread from slanting although it appears that the guides 148 obviously can perform the same. Anyway, Origane also shows a toasters having supporting bars 9, 10 as the bread trays and movable guard 14 having bent portions 14a, 14b and 14c for preventing slanting of slices of bread regardless of its thickness (see Figures 3-9 and col. 1, line 49 – col. 2, line 9 and col. 4, line 24 – col. 5, line 24). The movable guard 14 is the claimed holder part that moves in

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accordance with a movement of the at least one trays 9 and 10. It would have been obvious to an ordinary skill in the art at the time of invention to modify LG Electronics, Inc. to use a holder parts that moves with the bread tray to automatically adjust the relative positioning with the bread for keeping the bread slices straight and parallel to the heaters regardless of the bread thickness to achieve more uniform toasting result, in view of the teaching of Origane.

6. Claims 34-41, 43-45 and 50-57 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments filed 3-14-2006 have been considered but are not persuasive. The amendment not only met by the references as applied in the previous office action, it is actually broader in scope in at least one aspect as the newly amended limitation "at least receive, eject, and/or keep an item from slanting" does not even require eject or "slanting prevention". Since there is no function included for the "holder part", it reads on many elements in a toaster, such as the tray supporter 70 in Back which moves with the tray 74. It can even read on the toaster door 40 of Back. Furthermore, it is also equivalent to the bread guard of a toaster as the guard of a toaster usually moves with the bread supporter to automatically clamp the bread when it is lowered into the toaster slot and open to allow the bread to be raised when the toasting operation is finished as shown in Origane. The non-elected claims 1-27 should be cancelled in response to this Office action.

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8. The references in the IDS filed 9-30-2004 are duplicates of the ones filed in 3-3-2004 and therefore properly deleted from the Form.


9. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782. The examiner can normally be reached on flexible.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
5-30- 2006